IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 31ST JANUARY 2007 / 11TH MAGHA 1928

WP(C).No. 9403 of 2006(T)

PETITIONER:

VISWANATHA PILLAI .D., S/O.
DASAN KARANAVAR, AGED 52 YEARS, PRASANTH BHAVAN,
ERUMAKUZHI, NOORANADU P.O., ALAPPUZHA.

BY ADV. SRI.C.A.CHACKO
SMT.C.M.CHARISMA
SRI.N.A.SHAFEEK
SRI.M.X.ANTONY LIJO
SRI.N.R.SAJ

RESPONDENTS:

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1. THE MANAGER, KERALA STATE FINANCIAL
ENTERPRISES LTD., ADOOR BRANCH,
PUNTHALA SHOPPING COMPLEX, NEAR K.S.R.T.C.,
ADOOR - 691 523.

2. THE SPECIAL DEPUTY TAHSILDAR (R.R.),
THE KERALA STATE FINANCIAL ENTERPRISES LTD.,
ALAPPUZHA DISTRICT.

BY ADV. SRI.RAJU JOSEPH, ADDL.SC.,KSFE LTD.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 31/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF THE STATEMENT OF REMITTANCE OF RS.68,815/- DT.18.12.2003 GIVEN BY R1.

P2: .DO. RS.19,311/- .DO.

P3: TRUE COPY OF RECEIPT DT.31.8.2004 ISSUED BY R2 FOR R.R. NO.3151.

P4: .DO. R.R. NO.3152.

P5: TRUE COPY OF SALE NOTICE DT.NIL ISSUED BY R2.

P6: TRUE COPY OF INTIMATION DT.9.8.2005 ISSUED FROM DEPARTMENT OF REVENUE.

P7: TRUE COPY OF RECEIPT DT.10.10.2005 ISSUED BY R2 FOR R.R. NO.3151.

P8: TRUE COPY OF RECEIPT DT.10.10.2005 ISSUED BY R2 FOR R.R. NO.3152.

TRUE COPY

P.A. TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) No.9403 of 2006

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Dated this the 31st day of January, 2007.

JUDGMENT

The petitioner admittedly owes substantial amounts to KSFE. Even though some amount is paid, balance due is stated to be something less than Rs.2 lakhs as on today. This court in March 2006 gave a facility to the petitioner to settle liability in instalments. The petitioner admittedly could not make payments of instalments. Therefore, the present request for further instalments cannot be granted. The petitioner has to necessarily sell some item of property and settle liability. Since liability is only around Rs.2 lakhs and the mortgaged property includes petitioner's house, I feel petitioner can save the house only by sale of some other item of property or by raising funds to settle liability within a reasonable time. Considering the request made by counsel for petitioner, petitioner is granted time till 31.3.2007 to settle entire liability. If petitioner makes payment by then, there will be direction to first respondent to grant OTS benefits to the petitioner. If petitioner does not satisfy the norms for grant of OTS, there will be direction to first respondent to waive complete penal and default interest and settle liability at contract rate of interest provided full liability is

settled before 31.3.2007. A statement of OTS liability or liability exclusive of penal and default interest should be given to the petitioner within two weeks from the date of production of copy of this judgment. If petitioner does not settle liability by 31.3.2007, then the incentives granted will stand automatically vacated and there will be direction to the petitioner to hand over possession of mortgaged properties to the second respondent for sale.

W.P. is disposed of as above.

C.N.RAMACHANDRAN NAIR
Judge

pms